

REMARKS

In the non-final Office Action, the Examiner rejects claim 61 under 35 U.S.C. § 101 as non-statutory; rejects claims 2, 3, 5-7, 15-18, 20, 21, 23-25, 30, 33, 51, and 54-61 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. (U.S. Patent No. 7,082,397); rejects claims 4, 11-14, 22, 31, 34, and 53 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. in view Official Notice; rejects claims 8-10 and 26-28 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. in view of "Motorola, Visa, BroadVision and Others Team with Nuance to Introduce V-Commerce," PR Newswire, New York, October 6, 1998, pp. 1-4 (referred to hereinafter as "V-COMMERCE"); rejects claim 35 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. in view MCCOLLOM et al. (U.S. Patent No. 6,925,444); rejects claims 37, 38, 40-47, and 49 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. in view V-COMMERCE, and further in view of MCCOLLOM et al.; and rejects claim 39 under 35 U.S.C. § 103(a) as unpatentable over COHEN et al. in view of V-COMMERCE, and further in view of MCCOLLOM et al. and Official Notice. Applicants respectfully traverse these rejections.¹ Claims 2-18, 20-28, 30, 31, 33-35, 37-47, 49, 51, and 53-61 remain pending.

Claim 61 stands rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

With respect to claim 61, the Examiner alleges:

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

[a] signal per se is not the type of subject matter that is considered statutory. If the signal claim is interpreted as an abstract arrangement "to be transmitted", or as a transmission in transit, rather than a physical signal statically embedded in a physical computer readable medium, the signal claim is considered non-statutory

(Office Action, pg. 3). Applicants submit that the Examiner's allegations do not relate to the features recited in claim 61.

Claim 61 is directed to a method of storing information received over a telephone interface in a data storage coupled to a computer. The method includes operating the computer that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer is configured to respond to an audio command; in response to receiving the audio command over the telephone interface, causing the computer to establish a communication link with and to electronically interact with the second computer system; sending an audio signal from the computer to an audio interface, the audio interface for presenting the audio signal to a human, where the audio signal relates to an electronic commerce transaction between the computer and the second computer system; receiving a data signal on the computer, the data signal corresponding to a speech recognition result for the audio signal by a human; and responsive to receiving the data signal, updating the data storage to include the speech recognition result. Claim 61 is not directed to a signal, as the Examiner appears to allege. For example, claim 61 recites, *inter alia*, operating a computer that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce; causing the computer to establish a communication link with and to electronically interact with the second computer system; and sending an audio signal from the computer to an audio

interface. It is unclear how the Examiner can reasonably allege that the above acts performed by a computer correspond to a signal. Applicants submit that the Examiner has not established a *prima facie* basis for rejecting claim 61 under 35 U.S.C. § 101.

For at least the foregoing reasons, Applicants respectfully request that the rejection of claim 61 under 35 U.S.C. § 101 be reconsidered and withdrawn.

Claims 2, 3, 5-7, 15-18, 20, 21, 23-25, 30, 33, 51, and 54-61 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. Applicants respectfully traverse this rejection.

Independent claim 54 is directed to a method of facilitating an electronic commerce transaction. The method includes operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface system of the computer system; in response to receiving the audio purchase request, causing the computer system to establish a communication link with the second computer system; and causing the computer system to electronically interact with the second computer system to perform the electronic commerce transaction initiated by the audio purchase request. COHEN et al. does not disclose or suggest this combination of features.

For example, COHEN et al. does not disclose or suggest operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface

system of the computer system. In stark contrast, COHEN et al. specifically discloses that flight arrangements can be made and tickets can be purchased via a browser controller that is included in the airline's automated system (col. 12, lines 39-55). Thus, COHEN et al. specifically discloses that the browser controller, which allows the user to purchase the airline tickets, is included in the second computer system (i.e., the computer system utilized by the merchant).

The Examiner relies on col. 3, lines 3-41; col. 5, lines 1-26; col. 6, lines 26-36; and col. 13, lines 9-17 of COHEN et al. for allegedly disclosing the above feature of claim 54 (Office Action, pg. 4). Applicants respectfully disagree with the Examiner's interpretation of COHEN et al.

At col. 3, lines 3-41, COHEN et al. discloses:

The present invention is a system and method for allowing a user to audibly and interactively browse through a network of audio information. This system and method preferably includes a browser controller which allows the user to receive audio information and to transmit verbal instructions. The browser controller preferably links the user to telephone stations, voice-enabled world wide web pages, and regular world wide web pages, in response to voice commands. Upon linking to a voice page, telephone station or world wide web, certain information is played with an audio indication of linking capability of that information. For example, the information could be set apart by using earcons, which consist of special sounds played before and after the link text. Other audio indications besides an earcon may be used, such as speaking the link in a different voice than the main text, setting the link text apart from the surrounding text with pauses, or playing a background sound mixed in with the link. If the user repeats the information set off by the earcon or other means, the voice page transmits the telephone number or the URL of the selected link to the browser controller. The browser controller establishes a new link with the identified new telephone number or world wide web page. If the new link is made successfully, the first call is dropped.

The present invention overcomes the limitations of requiring the originator to know of the existence of the receiver as well as the telephone number or

URL of the receiver by providing a method to browse the entire telephone network, as well as to audio browse the world wide web, and to connect to a receiver by saying the name of the hyperlink. This brings the power of the world wide web to the telephone network. In effect, this invention takes the PSTN from its current state as a set of more than 800 million nodes including means to make pairwise connections and converts it to a highly interconnected browsable web. In addition, this invention integrates the entire PSTN with the entire world wide web into one large audio-browsable network.

It is an object of the present invention to provide a system which allows a user to audibly browse an audio network.

This section of COHEN et al. discloses a browser controller that links a user to telephone stations, voice-enabled world wide web pages, and regular world wide web pages, in response to voice commands. This section of COHEN et al. does not relate to providing electronic commerce. Thus, this section of COHEN et al. cannot disclose or suggest operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface system of the computer system, as recited in claim 54.

At col. 5, lines 1-26, COHEN et al. discloses:

FIG. 1 shows an exemplary network which incorporates the preferred embodiment of the present invention. This representation of the present invention is not intended to be limited to a specific number or type of system. A user can access the system using any conventional telephone 100 system including a stand-alone analog telephone, a digital telephone, a node on a PBX and alike. The system includes a browser controller 102 which is accessed by the user using their conventional telephone 100. It is anticipated that the browser controller 102 will be provided as a service to many users requiring similar access thereto. Corporations could also use this invention to provide voice access to their websites for their customers, also potentially providing a linking ability to those sites to which they choose to allow such linking. Thus, typical users will access the browser controller 102 via the PSTN 104. However, in certain corporate or

institutional environments a browser controller 102 may be made available to the users at the institution, such as in a PBX, thereby eliminating the need to connect the user's conventional telephone 100 to the browser controller 102 via the PSTN 104 and instead allowing a direct connection. Additionally, the browser controller 102 could be implemented in hardware and/or software in a personal computer, which also eliminates the need to connect the user's conventional telephone 100 to the browser controller 102 via the PSTN 104 and instead allowing a direct connection via the internet.

This section of COHEN et al. discloses that a user can access a browser controller via a Public Switched Telephone Network (PSTN) or via the Internet. This section of COHEN et al. does not relate to providing electronic commerce. Thus, this section of COHEN et al. cannot disclose or suggest operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface system of the computer system, as recited in claim 54.

At col. 6, lines 26-36, COHEN et al. discloses:

The originating user can use the browser controller 102 to call an IVR system 114 which only recognizes dtmf tones. Once the browser controller 102 connects the originating user to the IVR dtmf system 114, the user can extract or provide information as necessary using the key pad on the conventional telephone 100. Upon concluding the desired transaction or communication, or at any time the user speaks the browser wake-up word, the originating user states the browser wake-up word, control is returned to the browser controller 102. Thereafter, the connection the IVR dtmf system 114 can be severed or reasserted.

This section of COHEN et al. discloses that a user can call an interactive voice response (IVR) system using a browser controller. This section of COHEN et al. does not relate to providing electronic commerce. Thus, this section of COHEN et al. cannot disclose or

suggest operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface system of the computer system, as recited in claim 54.

At col. 13, lines 9-17, COHEN et al. discloses:

However, if the user does not have their own browser controller 102, the airline can provide it for them. The airline could also lease time on a browser controller 102 that exists at an external call center, eliminating the need for the airline to have its own call center for telephone access to its world wide web page. This provides for considerable economies of scale, With intelligent caching of the airline's voice data, prompts and grammars, latency can still be kept to a minimum.

This section of COHEN et al. discloses that an airline could lease time on a browser controller that exists at an external call center. Thus, COHEN et al. specifically discloses that the browser controller is affiliated with the airline (via the lease). This section of COHEN et al. in no way discloses or suggests operating a computer system that is unaffiliated with a second computer system utilized by a merchant to provide electronic commerce, where the computer system is configured to respond to an audio command representing an audio purchase request received via a telephone interface system of the computer system, as recited in claim 54.

COHEN et al. does not further disclose or suggest causing the computer system to establish a communication link with the second computer system in response to receiving the audio purchase request, as also recited in claim 54. In stark contrast, COHEN et al. discloses the user accessing a browser controller that is affiliated with the merchant's

automated system and then interacting with the automated system to purchase tickets (col. 12, lines 39-55).

The Examiner relies on col. 9, line 43, to col. 10, line 9, and col. 3, line 65, to col. 4, line 17, of COHEN et al. for allegedly disclosing the above feature of claim 54 (Office Action, pg. 5). Applicants respectfully disagree with the Examiner's interpretation of COHEN et al.

At col. 9, line 43, to col. 10, line 9, COHEN et al. discloses:

Further, each originating user could develop a series of individual tasks for their browser controller 102 to perform which would be stored on their personal start page. Such dynamic information allows the originating user to make calls or connect to known services without having to remember telephone numbers. For example, while driving to work, an originating user could access their browser controller 102 and state the command `weather`. The browser controller 102 will then dial the number it knows for the local weather report and allow the user to listen to the report. The browser controller 102 will maintain the connection until it `hears` the browser wake-up word. Upon hearing the browser wake-up word, the browser controller 102 waits for a command. Our sample originating user then asks for her stock list. The connection to the weather report is severed and a new connection is established to the service that gives stock information. That connection is maintained until the browser controller 102 again hears the browser wake-up word. Our sample originating user then commands `call mom`. Whereupon the browser controller 102 severs the connection to the stock list and dials the desired person. Our sample originating user concludes her call and then accesses a voice page 118 news report. During an advertisement, an audio indication announces a link to a local <restaurant>. Our sample originating user then says the name of the <restaurant>. The browser controller 102 automatically connects our sample originating user to the restaurant, then disconnects the present call, and then the originating user makes a lunch reservation. All these communication transactions occurred without our sample originating user having to dial any number except the first call to the browser controller 102. Further, she accessed both conventional telephones, IVRs, audio information services and voice pages in a single call to her browser controller 102.

There will be a set of static and dynamic grammars that will be active on each voice page 118. Depending on the implementation, voice recognition for the items in these grammars could reside as part of either the browser controller 102 or the voice page 118. Table 2 sets forth what these grammars might be. It is clear to anyone involved in the art that more or less items can be included in these grammars.

This section of COHEN et al. discloses that a user can state a command, such as "weather," to cause the browser controller to dial a predetermined telephone number, such as a telephone number for a local weather report. This section of COHEN et al. does not disclose or suggest causing browser controller (which the Examiner appears to allege corresponds to the recited computer system) to establish a communication link with a second computer system, which is utilized by a merchant to provide electronic commerce, in response to receiving an audio purchase request, as would be required based on the Examiner's interpretation of claim 54. In fact, the above section of COHEN et al. does not relate to electronic commerce or purchase requests.

At col. 3, line 65, to col. 4, line 17, COHEN et al. discloses:

The present invention is directed toward a voice activated system that is designed to allow a user to request, navigate, retrieve, and store information from a network of telephone stations, "interactive voice response" (IVR) stations voice-enabled world wide web pages and regular world wide web pages. This complete set of telephone numbers, and URLs is referred to as voice pages. Voice pages that have been designed to operate cooperatively with the present invention as well as all regular world wide web pages can take advantage of the features of the present invention, including hyperlinking. Conventional telephone stations or currently existing IVR stations cannot take advantage of hyperlinking, but other browsing capabilities will still be available. These voice pages will link to other voice pages to form a network. All conventional telephone stations are also part of this network. The various voice web pages are capable of being linked together to form the pseudo-network of voice web pages by having a browser which can connect to any voice web page, be it either a telephone number on the PSTN or a URL on the world wide web.

This section of COHEN et al. discloses that COHEN et al.'s system allows for a user to request, navigate, retrieve, and store information from telephone stations, IVR stations, voice-enabled world wide web pages, and regular world wide web pages. This section of COHEN et al. in no way discloses or suggests causing browser controller (which the Examiner appears to allege corresponds to the recited computer system) to establish a communication link with a second computer system, which is utilized by a merchant to provide electronic commerce, in response to receiving an audio purchase request, as would be required based on the Examiner's interpretation of claim 54.

For at least the foregoing reasons, Applicants submit that claim 54 is patentable over COHEN et al.

Claims 2, 3, 5-7, and 15-18 depend from claim 54. Therefore, Applicants submit that these claims are patentable over COHEN et al. for at least the reasons given above with respect to claim 54.² Moreover, these claims are patentable over COHEN et al. for reasons of their own.

For example, claim 2 recites accessing a user profile corresponding to received telephone identifying information, where the user profile corresponds to information about a user; and including information from the user profile in at least one of a first request or a second request to the second computer system. With respect to these features, the Examiner alleges:

caller id, asks for account PIN number, speaker verification (see at least Fig. 2 (200); col. 10, lines 40-45); system stores user preferences (i.e. a

² As Applicants' remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicants' silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicants to the Examiner's assertions as to these claims, and Applicants reserve the right to analyze and dispute such assertions in the future.

profile, stores "mom's" phone number and retrieves "mom's" phone number) (see at least Fig. 2 (206); col. 9, lines 60-63; col. 10, lines 51-53). Please note: user preference used in at a first or subsequent request to a second computer (e.g. "call mom") (see at least Fig. 2 (206); col. 9, lines 60-63); user wake-up word unique to user (i.e. a password) (see at least col. 5, lines 65-67)

(Office Action, pg. 6). Applicants submit that the Examiner's allegations do not address the specifically recited features of claim 2.

Claim 2 does not recite storing a telephone number and using the stored telephone number to place a call to a party. Instead, claim 2 specifically recites accessing a user profile corresponding to received telephone identifying information, where the user profile corresponds to information about a user; and including information from the user profile in at least one of a first request or a second request to a second computer system that is utilized by a merchant to provide electronic commerce. Placing a call to a user's mother is not equivalent to including information from a user profile in at least one of a first request or a second request to a second computer system that is utilized by a merchant to provide electronic commerce, as recited in claim 2.

Nonetheless, step 200 in Fig. 2 of COHEN et al. discloses that a caller is identified by caller identification, asking for an account number/PIN, or speaker verification. This step of COHEN et al. does not disclose or suggest accessing a user profile corresponding to received telephone identifying information, where the user profile corresponds to information about a user; and including information from the user profile in at least one of a first request or a second request to a second computer system that is utilized by a merchant to provide electronic commerce, as recited in claim 2.

At col. 10, lines 40-45, COHEN et al. discloses:

FIG. 2 shows a flow chart of the operation of the browser controller 102 (FIG. 1). The originating user calls the browser controller 102 which identifies the caller using any known method in block 200. Once the originating user is identified, the browser controller 102 may load the start page 106 (FIG. 1) for that originating user in block 202.

This section of COHEN et al. discloses that browser controller 102 identifies the caller.

This section of COHEN et al. does not disclose or suggest accessing a user profile corresponding to received telephone identifying information, where the user profile corresponds to information about a user; and including information from the user profile in at least one of a first request or a second request to a second computer system that is utilized by a merchant to provide electronic commerce, as recited in claim 2.

Step 206 in Fig. 2 of COHEN et al. discloses that if a user says "preferences," the browser controller initiates a program related to the user's preferences. This step of COHEN et al. does not disclose or suggest accessing a user profile corresponding to received telephone identifying information, where the user profile corresponds to information about a user; and including information from the user profile in at least one of a first request or a second request to a second computer system that is utilized by a merchant to provide electronic commerce, as recited in claim 2.

At col. 9, lines 60-63, COHEN et al. discloses:

browser controller 102 again hears the browser wake-up word. Our sample originating user then commands `call mom`. Whereupon the browser controller 102 severs the connection to the stock list and dials the desired person.

This section of COHEN et al. discloses that browser controller 102 receives a command and places a telephone call to a predetermined number. This section of COHEN et al. does not disclose or suggest accessing a user profile corresponding to received telephone

identifying information, where the user profile corresponds to information about a user;
and including information from the user profile in at least one of a first request or a
second request to a second computer system that is utilized by a merchant to provide
electronic commerce, as recited in claim 2.

At col. 10, lines 51-53, COHEN et al. discloses:

For example, if the originating user says, preferences 206, the browser
controller 102 initiates a program related to their preferences.

This section of COHEN et al. does not disclose or suggest accessing a user profile
corresponding to received telephone identifying information, where the user profile
corresponds to information about a user; and including information from the user profile
in at least one of a first request or a second request to a second computer system that is
utilized by a merchant to provide electronic commerce, as recited in claim 2.

At col. 5, lines 65-67, COHEN et al. discloses:

The browser wake-up word is preferably not a commonly used word.
Under certain circumstances a user may select their own browser wake-up
word, but this is not

This section of COHEN et al. discloses the use of a wake-up word for the browser
controller. This section of COHEN et al. does not disclose or suggest accessing a user
profile corresponding to received telephone identifying information, where the user
profile corresponds to information about a user; and including information from the user
profile in at least one of a first request or a second request to a second computer system
that is utilized by a merchant to provide electronic commerce, as recited in claim 2.

For at least these additional reasons, Applicants submit that claim 2 is patentable
over COHEN et al.

Independent claims 55-61 recite features similar to (yet possibly of different scope than) features described above with respect to claim 54. Therefore, Applicants submit that claims 55-61 are patentable over COHEN et al. for at least reasons similar to reasons given above with respect to claim 54.

Claims 20, 21, and 23-25 depend from claim 55. Therefore, these claims are patentable over COHEN et al. for at least the reasons given above with respect to claim 55.

Claims 30 and 31 depend from claim 56. Therefore, these claims are patentable over COHEN et al. for at least the reasons given above with respect to claim 56.

Claim 51 depends from claim 60. Therefore, these claims are patentable over COHEN et al. for at least the reasons given above with respect to claim 60.

Claims 4, 11-14, 22, 31, 34, and 53 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. in view of the Examiner's taking of Official Notice. Applicants respectfully traverse this rejection.

Claims 4 and 11-14 depend from claim 54. Therefore, these claims are patentable over COHEN et al. and the Examiner's taking of Official Notice for at least the reasons given above with respect to claim 54. Moreover, these claims are patentable over COHEN et al. and the Examiner's taking of Official Notice for reasons of their own.

For example, claim 4 recites that the user profile includes information obtained from a reverse directory lookup on the telephone identifying information. The Examiner admits that COHEN et al. does not disclose this feature and alleges:

[t]he Examiner takes the position that conducting a reverse directory lookup based on telephone numbers to extract customer identifying information is old and well known in the telecommunications industry (Office Action, pg. 7). Applicants submit that the Examiner has misinterpreted the language of claim 4.

Claim 4 does not merely recite conducting a reverse directory lookup based on telephone numbers to extract customer identifying information. Instead, claim 4 specifically recites that the user profile includes information obtained from a reverse directory lookup on the telephone identifying information. Thus, even if conducting a reverse directory lookup based on telephone numbers is well known, Applicants submit that providing a user profile that includes information obtained from a reverse directory lookup on the telephone identifying information was not well known in the art at the time of Applicants' invention. The Examiner has provided no evidence that this feature was well known in the art at the time of Applicants' invention.

If this rejection is maintained, Applicants respectfully request that the Examiner provide a reference that indicates that providing a user profile that includes information obtained from a reverse directory lookup on the telephone identifying information was well known in the art at the time of Applicants' invention.

For at least these additional reasons, Applicants submit that claim 4 is patentable over COHEN et al. and the Examiner's taking of Official Notice.

Claim 11 recites responsive to a first response from the second computer system (that is utilized by a merchant to provide electronic commerce), generating a voice receipt, the voice receipt corresponding to information about the

electronic commerce transaction. The Examiner admits that COHEN et al. does not disclose this feature (Office Action, pg. 9). The Examiner alleges:

[t]he Examiner takes the position that it is old and well known in the arts for a consumer making a purchase to receive a printed receipt with identifying information (i.e. buyer's name, credit card account and expiration, product description) or electronic receipt to review and confirm pricing and/or items purchased and that one of ordinary skill in the art would recognize that such a receipt within the context of Cohen's invention would be in audio format (i.e. text-to-speech output to the user as noted above)

(Office Action, pg. 9). Applicants submit that the Examiner has misinterpreted the language of claim 11.

Claim 11 does not merely recite providing a printed receipt. Instead, claim 11 specifically recites responsive to a first response from a second computer system (that is utilized by a merchant to provide electronic commerce), generating a voice receipt, where the voice receipt corresponds to information about the electronic commerce transaction. Thus, even if providing a printed receipt was well known in the art at the time of Applicants' invention, Applicants submit that generating a voice receipt in response to a first response from a second computer system that is utilized by a merchant to provide electronic commerce was not well known in the art at the time of Applicants' invention. The Examiner has provided no evidence that this feature was well known in the art at the time of Applicants' invention.

If this rejection is maintained, Applicants respectfully request that the Examiner provide a reference that indicates that generating a voice receipt in response to a first response from a second computer system that is utilized by a merchant to provide electronic commerce, where the voice receipt corresponds to information about the

electronic commerce transaction, was well known in the art at the time of Applicants' invention.

For at least these additional reasons, Applicants submit that claim 11 is patentable over COHEN et al. and the Examiner's taking of Official Notice.

Claim 22 depends from claim 20. Therefore, Applicants submit that claim 22 is patentable over COHEN et al. and the Examiner's taking of Official Notice for at least the reasons given above with respect to claim 20.

Claim 31 depends from claim 30. Therefore, Applicants submit that claim 31 is patentable over COHEN et al. and the Examiner's taking of Official Notice for at least the reasons given above with respect to claim 30.

Claim 34 depends from claim 33. Therefore, Applicants submit that claim 34 is patentable over COHEN et al. and the Examiner's taking of Official Notice for at least the reasons given above with respect to claim 33.

Claim 53 depends from claim 61. Therefore, Applicants submit that claim 53 is patentable over COHEN et al. and the Examiner's taking of Official Notice for at least the reasons given above with respect to claim 61.

Claims 8-10 and 26-28 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. in view of V-COMMERCE. Applicants respectfully traverse this rejection.

Claims 8-10 depend from claim 2. The disclosure of V-COMMERCE does not remedy the deficiencies in the disclosure of COHEN et al. set forth above with respect to claim 2. Therefore, Applicants submit that claims 8-10 are patentable over COHEN et al.

and V-COMMERCE, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 2.

Claims 26-28 depend from claim 20. The disclosure of V-COMMERCE does not remedy the deficiencies in the disclosure of COHEN et al. set forth above with respect to claim 20. Therefore, Applicants submit that claims 26-28 are patentable over COHEN et al. and V-COMMERCE, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 20.

Claim 35 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. in view of MCCOLLOM et al. Applicants respectfully traverse this rejection.

Claim 35 depends from claim 33. The disclosure of MCCOLLOM et al. does not remedy the deficiencies in the disclosure of COHEN et al. set forth above with respect to claim 33. Therefore, Applicants submit that claim 35 is patentable over COHEN et al. and MCCOLLOM et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 33. Moreover, this claim is patentable over COHEN et al. and MCCOLLOM et al. for reasons of its own.

Claim 35 recites that the means for selecting includes means for comparing prices for the product at a plurality of merchants; means for providing a list of a predetermined number of merchants from the plurality of merchants over the telephone, where the predetermined number of merchants offer the product at a lower price than other merchants in the plurality of merchants; and means for receiving an audio selection of one of the merchants in the list, the selection corresponding to the merchant. COHEN et

al. and MCCOLLOM et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, COHEN et al. and MCCOLLOM et al. do not disclose or suggest means for comparing prices for the product at a plurality of merchants. The Examiner admits that COHEN et al. does not disclose this feature (Office Action, pp. 9-10). The Examiner relies on MCCOLLOM et al. for allegedly disclosing this feature (Office Action, pg. 10). Applicants respectfully disagree with the Examiner's interpretation of MCCOLLOM et al.

MCCOLLOM et al. is directed to creating and sharing purchasing lists (Title). MCCOLLOM et al. discloses that a consumer can create a purchase list by receiving advertisement data on a consumer device, selecting an item desired for purchase, identifying the purchase list for the item to be saved, creating the purchase list if the purchase list identified does not exist, and saving the item to the identified purchase list (Abstract). The consumer user interface further provides the consumer the ability to share the purchase list by identifying a purchase list to be shared, converting the purchase list to the appropriate format, identifying a recipient of the purchase list, and transmitting the purchase list to the recipient (Abstract). MCCOLLOM et al. in no way discloses or suggests means for comparing prices for a product at a plurality of merchants, as recited in claim 35.

Applicants respectfully request that the Examiner specifically point out where this feature is disclosed in MCCOLLOM et al. or withdraw the rejection.

Even assuming, for the sake of argument, that MCCOLLOM et al. could reasonably be construed to disclose the above feature of claim 35 (a point that Applicants do not concede), Applicants submit that one skilled in the art at the time of Applicants' invention would not have been motivated to incorporate this alleged teaching of MCCOLLOM et al. into the COHEN et al. system, absent impermissible hindsight. With respect to motivation, the Examiner alleges:

[o]ne of ordinary skill ... would recognize that the web-based comparison shopping system of McCollom could be accessed by the invention of Cohen to interface a telephone user to the comparison shopping services of McCollom

(Office Action, pg. 10). Applicants submit that the Examiner has not established a *prima facie* case of obviousness with respect to claim 35. The Examiner does not explain why one skilled in the art at the time of Applicants' invention would have been motivated to incorporate MCCOLLOM et al.'s alleged disclosure of means for comparing prices for a product at a plurality of merchants into the COHEN et al. system. Instead, the Examiner simply alleges that incorporation of this feature into the COHEN et al. system is possible. Such motivation statements are insufficient for establishing a *prima facie* case of obviousness.

For at least these additional reasons, Applicants submit that claim 35 is patentable over COHEN et al. and MCCOLLOM et al., whether taken alone or in any reasonable combination.

Claims 37, 38, 40-47, and 49 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. in view of V-COMMERCE, and further in view of MCCOLLOM et al. Applicants respectfully traverse this rejection.

Claims 37, 38, and 40-47 depend from claim 58. The disclosures of V-COMMERCE and MCCOLLOM et al. do not remedy the deficiencies in the disclosure of COHEN et al. set forth above with respect to claim 58. Therefore, Applicants submit that claims 37, 38, and 40-47 are patentable over COHEN et al., V-COMMERCE, and MCCOLLOM et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 58.

Claim 49 depends from claim 59. The disclosures of V-COMMERCE and MCCOLLOM et al. do not remedy the deficiencies in the disclosure of COHEN et al. set forth above with respect to claim 59. Therefore, Applicants submit that claim 49 is patentable over COHEN et al., V-COMMERCE, and MCCOLLOM et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 59.

Claim 39 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over COHEN et al. in view of V-COMMERCE, and further in view of MCCOLLOM et al. and the Examiner's taking of Official Notice. Applicants respectfully traverse this rejection.

Claim 39 depends from claim 37. Therefore, Applicants submit that claim 39 is patentable over COHEN et al., V-COMMERCE, MCCOLLOM et al., and the Examiner's taking of Official Notice, whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 37.

In view of the foregoing remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone to expedite prosecution of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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